

Nov. 28, 1977

*Rights of new
Certified repr.
over matters negotiated
by past certified repr.*

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

77-31

Rochester Education Association)
)
v.)
)
Rochester School Board)

APPEARANCES:

New Hampshire Education Association - Jack B. Middleton, Esq. and Stephen Borofsky, Esq.

Rochester Federation of Teachers - Joseph S. Durkin

Rochester School Board - Robert E. Fisher, Esq.

FINDINGS AND ORDER REGARDING MOTION NUMBER ONE OF AMERICAN FEDERATION OF TEACHERS OF JULY 8, 1977

The Rochester Federation of Teachers, by Joseph S. Durkin, National Representative of the American Federation of Teachers, filed a motion entitled "Federation Motion Number One of July 8, 1977" with the Public Employee Labor Relations Board (hereinafter the Board) seeking to have the Board's order of February 8, 1977 arising out of certain complaints brought by the Rochester Education Association affiliated with the New Hampshire Education Association dismissed. The finding of February 8, 1977 was based on hearings held in 1976 on certain unfair labor charges. Since the hearings on said unfair labor charges, and prior to the decision of the Board dated February 8, 1977, a new election was held in the City of Rochester which resulted in the Rochester Federation of Teachers being certified as the collective bargaining agent of the teachers and the Rochester Education As-

sociation being decertified. The Board's order of February 8 held, among other things, that certain back wages were due to teachers in the school system during periods prior to the election which resulted in the selection of the new bargaining agent. At all times relevant to this decision prior to the selection of the Rochester Federation of Teachers, the said teachers were represented by the Rochester Education Association which brought the charges of unfair labor practices, represented the teachers before the hearings held thereon and was certified by the Board as the duly selected bargaining agent.

A hearing was held on the Federation Motion Number One on August 30, 1977 at which time all parties were heard. The parties agreed at that time that the present representative of all teachers in the Rochester school system is the Rochester Federation of Teachers for collective bargaining purposes and the Rochester Education Association is not the present representative of those teachers for current and future matters as long as the Rochester Federation of Teachers is the certified bargaining agent. The parties disagreed on the effect of the selection of a new bargaining agent on the previous charges. That disagreement is critical to action on the motion in that the motion seeks to have the Board dismiss its prior order of February 8 because the Rochester Federation of Teachers and the School Board were able to agree on an "interim agreement" which seeks to dispose of the issues between the parties in part and to have all actions on the

matter before whatever body dismissed. Present actions pending at the time of the hearing concerning the matter were an appeal by the Rochester School Board to the Supreme Court of the order of February 8, 1977, an action to enforce the Board's order of March 15, 1977 ordering the production of documents at the Superior Court in Strafford County, and an action brought by the New Hampshire Education Association against the Rochester School Board, also pending in the Strafford County Superior Court.

Following the hearing, the parties were requested to submit briefs which have been submitted by all parties.

The Board has considered the briefs of the parties, the evidence at the hearing, and the facts of the case and makes the following findings and order:

1. From the date of the certification of the Rochester Federation of Teachers, it has been and is the official representative of the teachers presently employed by the Rochester School Board. The said Rochester Federation of Teachers has the authority to and right to bargain with the Rochester School Board on all issues pertaining to said teachers, whether said issues arose prior to or during their period of representation, subject to the approval of the membership of any agreements reached.

2. As to teachers employed by the Rochester School Board prior to the selection of the Rochester Federation of Teachers, covered by the order of the Board dated February 8, 1977 as to

back pay and other matters, the Rochester Federation of Teachers does not represent those who left the system prior to the selection of the new bargaining agent. Those employees were represented by the New Hampshire Education Association at the time the unfair labor practice was brought and as to any action on matters brought prior to the selection of the new union still pending before the Board for whatever reason, the New Hampshire Education Association has the right to speak for those teachers who have left the system and for no other teachers.

3. Incorporating herein the findings numbered 1 and 2 above, the Board denies the motion of the Federation entitled "Federation Motion Number One of July 8, 1977" since it pertains to teachers who have left the Rochester school system prior to the selection of the Rochester Federation of Teachers as the bargaining agent.

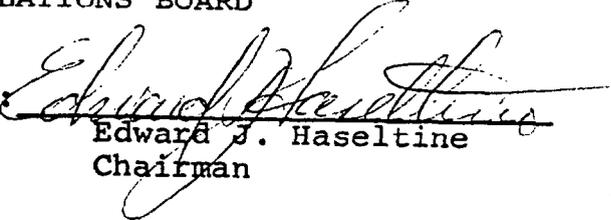
4. The Board holds that it will not agree to the dismissal of any actions pending before any court on any matters contained herein.

5. Nothing herein contained shall be read to interfere with the right of the Rochester Federation of Teachers and the Rochester School Board to implement agreements as to any matters concerning presently employed teachers, whether as to past matters, present matters or future agreements which the Board encourages the parties to pursue.

6. The Board makes no finding as to the propriety or impropriety of the interim agreement dated June 24, 1977 which

is a matter to be negotiated by and left to the Rochester School Board and the Rochester Federation of Teachers.

PUBLIC EMPLOYEE LABOR
RELATIONS BOARD

By: 
Edward J. Haseltine
Chairman

DATE: November 28, 1977